

SCHEDULE 2

(introduced by section 25)

NATURE CONSERVATION ORDERS AND RELATED ORDERS: PROCEDURE

Application of schedule

- 1 This schedule applies to nature conservation orders, amending orders and revoking orders.

Consultation

- 2 Before making an order to which this schedule applies the Scottish Ministers must—
- (a) consult SNH on the proposed order, and
 - (b) have regard to any representations made by SNH.

Notification

- 3 The Scottish Ministers must, as soon as practicable after making an order to which this schedule applies, give notice of it—
- (a) to the interested parties,
 - (b) in at least one local newspaper circulating in the area in which the land to which the order relates is situated, and
 - (c) in such other manner (including on the internet or by other electronic means) as they think fit.
- 4 The notice must—
- (a) set out the order or describe its general effect and, in either case, state whether it has taken effect,
 - (b) where the notice does not set out the order—
 - (i) name a place where a copy of it may be inspected free of charge at all reasonable hours, and
 - (ii) provide details of how to obtain, on payment of such reasonable charge (if any) as may be imposed by the Scottish Ministers, a copy of it, and
 - (c) where the notice is given in respect of a nature conservation order or an amending order, specify the period (not being less than 3 months from the date on which the notice is given) during which, and the manner in which, representations with respect to the order may be made.

Confirmation of nature conservation orders and amending orders

- 5 The Scottish Ministers must, within—
- (a) the period of one year beginning with the date on which a nature conservation order or amending order is made, or
 - (b) if that period is extended under paragraph 12, the period as so extended,
- after considering any representations made within the period specified in the notice and the report of any person appointed under paragraph 10 to hold an inquiry or to hear representations, decide either to confirm or not to confirm the order.

Status: This is the original version (as it was originally enacted).

- 6 The Scottish Ministers may confirm the order with or without modifications; and the notice given under paragraph 8 of the decision to confirm must specify the modifications (if any) which they have made.
- 7 Such modifications must not extend the area of land to which a nature conservation order relates.
- 8 The Scottish Ministers must, as soon as practicable after making a decision under paragraph 5, give notice of it in accordance with paragraph 3(a) to (c).
- 9 An order which is confirmed with modifications has effect, from the giving of notice under paragraph 8 of the decision to confirm, in its modified form.

Inquiry or other opportunity to be heard

- 10 If any representation made during the period specified in the notice is not withdrawn during the period mentioned in paragraph 5(a), or that period as extended, the Scottish Ministers must—
 - (a) cause a local inquiry to be held, or
 - (b) give the person who made the representation an opportunity of being heard by a person appointed by the Scottish Ministers for the purpose.
- 11 Subsections (4) to (8) (which relate to the giving of evidence at, and defraying the cost of, local inquiries) of section 210 of the Local Government (Scotland) Act 1973 (c. 65) apply in relation to any inquiry held under paragraph 10(a) as they apply in relation to a local inquiry which is caused to be held under subsection (1) of that section.

Extension of period

- 12 The Scottish Ministers may, with the agreement (obtained in accordance with paragraph 13) of every owner and occupier of land to which the order relates, extend or further extend the period mentioned in paragraph 5(a) by such period as may be agreed with those persons.
- 13 Agreement is obtained for the purposes of paragraph 12 if the Scottish Ministers, not less than 28 days before the expiry of the period to be extended or further extended, give notice of the proposed extension or further extension to every owner and occupier of land to which the order relates and—
 - (a) every such person consents to the extension, or
 - (b) no reasonable objection by any such person to the extension is received by the Scottish Ministers within 28 days of the date on which the notice was given.
- 14 Where the Scottish Ministers extend or further extend the period mentioned in paragraph 5(a) they must give notice of the extension, or further extension, to the interested parties.

Recording or registration of orders

- 15 An order to which this schedule applies and a notice under paragraph 8 must be recorded in the General Register of Sasines or registered in the Land Register of Scotland as appropriate.